Supreme Court, U.S.
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IN THE

Supreme Court of the United States

Yva G. Scringer

Petitioner

v.

Green Point Bank

Respondent

Brief for Petitioner

On Petition for Writ of Certiorari
To The Court of Appeals for the Second Circuit

Yva G. Scringer, Pro Se
Counsel of Record for Petitioner
255 Eastern Parkway, F1
Brooklyn, N.Y. 11238
Tel. 718 622-7112
& 718 783-3899

QUESTIONS PRESENTED FOR REVIEW
Rule 14.1(a)

1. Are not "dismissal" of a case and "Closing" of a case totally different concepts and stages of a petition, so that even a bankruptcy Judge may not interchange the terms and equate the two against debtor's interest since an unclosed case means that its stay is still not lifted?

2. Can multiple missing transcripts be considered "harmless error" and permitted in view of Bankruptcy Rule 5007 and 28 U.S.C. para 753 and 28 U.S.C. para. 80 which mandate the creation and maintenance of the evidentiary record as per Moore's Federal Practice, v.18, Rule 80 on "Transcription error" and protection of Judicial machinery from attack?

3. Can the appearance of cronyism and conflict of interest on the part of a referee be permitted in violation of the spirit and letter of the Part 36 Rules of the Chief Administrative Judge of New York State.

4. Does not Banruptcy Rule 9024, FRCP Rule 60 in entirety encompass and provide relief for precisely the inadvertence, mistake, negligence, surprise, discovery conditions exemplified in the instant case?

5. Should "dismissal" and "Closing" of a case be applied differently and less strictly in one district, e.g. Eastern District of New York, than in another, e.g., Southern and/or Western Districts of New York, thereby conveying the idea that Black people are less entitled to the rigors and benefits of Constitutionally guaranteed "debt relief" than White people?

6. Can "nunc pro tunc" closing of a case (99-21821-575)—after a sale has already occurred on 5/10/01)—satisfy the demands of justice and legitimize a sale conducted while a stay was not lifted?

7.Why did not Judge Craig in 01-15887-608 close previous related case 99-21821-575 if it was in order on 6/19/01, 7/11/01, 7/24/01?

8. Do commercial rights of a bank and a bidder at auction supercede the rights of a property owner, where a stay has not been lifted?

9. Can proscriptions against the "enlargement" of issues before this Court and the Lower Courts apply to this case where surprise, discovery and misconduct abound, precisely consistent with the conditions for relief under Bankr. 9024, Rule 60 generally as set forth by the Bankruptcy Court Judge on 6/19/01 in the instant case 01-15887-608?

PARTIES TO PROCEEDING

Yva G. Scringer, Petitioner

Green Point Bank, Respondent

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SUPREME COURT OF THE UNITED STATES
WASHINGTON, D.C.

In Re:

MOTION

Yva G. Scringer

Petitioner

V

Green Point Bank

Respondent

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1. I, Petitioner, Yva G. Scringer, depose and affirm that I must proceed Pro Se due to the Respondent's provable campaign of intimidation which has culminated in my attorney's abandonment of my case without notice at the last minute, remaining strictly incommunicado and altogether unreachable in person. I therefore ask the Court's forgiveness of any technical deficiencies relative to the Rules which I have endeavored to observe to the best of my ability in re-writing the annexed Petition and, herewith, I request leave to file it myself, just as I have proceeded all along, through Bankruptcy, U.S. District Court and Court of Appeals, Pro Se, with the exception of a brief period at the end of the Court of Appeals litigation and the first Brief submitted to this Court on June 7, 2004.

2. I expect to retain new counsel for purposes of Oral argument, should the Court so favor my Petition for a Writ of Certiorari, but I am prepared to argue it before the Court myself should the need exist

---

Brooklyn, New York
August 15, 2004

Respectfully submitted

Yva G Scringer

Yva G. Scringer, Pro Se
Counsel of Record for Petitioner
255 Eastern Parkway, F1
Brooklyn, N.Y. 11238
Tel. 718 622-7112 & 718 783-3899

No.

IN THE
Supreme Court of The United States
CERTIFICATE OF SERVICE

Yva G. Scringer

Petitioner

v.

Green Point Bank

Respondent

I, Yva G. Scringer, Counsel of Record for myself as Petitioner, certify under penalty of perjury, that on August 15, 2004, I delivered to Respondent, Green Point Bank, via U. S. Mail 3 true copies of the "Brief For Petitioner", plus 3 true copies of Appendix On Petition for Writ of Certiorari To The Court of Appeals for the Second Circuit. Plus 3 copies of this Motion I mailed them to the law firm of the Respondent at:

Green Point Bank
c/o Cullen and Dykman Bleakley Platt LLP
Counselor of Record for Respondent
100 Quentin Roosevelt Boulevard
Garden City, New York 11530
Att: Mr. Matthew G. Roseman, Esq.

Brooklyn, New York
August 15, 2004

Yva G. Scringer

Yva G. Scringer, Pro Se
Counsel of Record for Petiitioner
255 Eastern Parkway, F1
Brooklyn, N.Y. 11238
718 622-7112 & 718 783-3899

OPINIONS BELOW

Bankruptcy Court of the Eastern District ruled that the instant petition is prohibited by reason of a Prejudice Order in a previous case and that appeals therefrom were untimely.

The U.S. District Court of the Eastern District affirmed the Bankruptcy Court rulings.

The Court of Appeals for the Second Circuit affirmed the rulings of the U.S. District Court and denied a petition for rehearing on March 9, 2004

JURISDICTION

U.S. Supreme Court derives its authority from article III of the U.S. Constitution. 28 U.S.C. is the applicable statute whereby judgments of the U.S. Court of Appeals are reviewed

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

14TH Amendment of the U.S. Constitution providing equal protection under the law.

Constitutional right to debt relief under Title 11 of the U.S. Constitution.

U.S.C.A. 28, Rule 80, Court transcripts as evidence, necessary to discovery. U.S.C.S. 28 Rule 753 , Rule 5007 Mandatory creation and maintenance of transcripts

Banruptcy Rule 9024, F.R.C.P. Rules 60, 60(b)(1) Relief from judgments, orders, rulings through errors in law, mistake,

inadvertence, surprise, or inexcusable neglect or other reason
Local Rules of bankruptcy relative to administration of the property of the estate and case closing: 2002-1, et al

Bankruptcy rules 718 and 5009 on case closing

STATEMENT OF THE CASE

1) I, Yva G. Scringer, the Petitioner/Debtor filed a Chapter 13 Bankruptcy petition on September, 1999.

2) My Debtor's Plan was confirmed. I am a working senior.

3) I, the Debtor, defaulted on the plan, **suspecting the Bank of sabotaging my ability to stay current (See APP-22 – APP-25).** Also, tenants nonpayment created cash flow problems)

4) The Bankruptcy Estate held only two pieces of property the real property of 831 Quincy, Brooklyn, NY 11221 and 827 Quincy St., Brooklyn, N.Y. 11221

5) The real property, 831 Quincy Street, Brooklyn, N.Y. 11221`,was foreclosed and auctioned on May 10, 2001 while case 99-21821-575 was still open, the stay not lifted.

6) Since that date, I, the petitioner, discovered other shocking facts which, in vain, I also protested in lower courts: Missing transcripts, Trustee negligence, Referee conflict of interest. (a) The adverse interest of the referee and ;(b) the auction was an `insider sale' ;(c)) the Former Trustee did not `formally abandon' the estate, produce reports, or perform any of the Trustee prescribed duties. This culminated in his decision not to take action to `avoid the sale' or otherwise act to preserve the Bankruptcy Estate. See Exhibits in Appendix: (APP-10)(APP-11)(APP-12)(APP-13)(APP-14) The process of the sale was sufficiently flawed to create an "insider sale". Shortly thereafter, the Former Trustee, Gelberg, was removed from office for malfeasance. As proved by the 8/13/01 late (after sale) closing of 99-21821-575, Mr. Gelberg did not perform his duties in this case, which duties were to: (a) Formally abandon the estate, (b) produce reports; (c) performance of the duties prescribed to a Trustee. The missing transcripts as well as the court clerks testify to this. (APP-7) (APP-8).

9) Notice of the crucial action—the 8/25/00 Prejudice Order—was sent not to me, the petitioner, who was, perforce, acting Pro Se, due to abandonment by my then attorney, Jacubowitz—but it was sent to Jacubowitz himself. That attorney represented me initially, but abandoned the case soon after the filing of the Plan. I, The Petitioner, was thus crippled both by his abandonment of me and by the stigma associated with the Prejudice Order which prevented me from being able to retain necessary professional counsel for extended critical periods thereafter. Mr. Jacubowitz, while yet the attorney of record, having received full payment for his services, $3000, attended no court dates, after the initial filing, filed no documents protesting the illegal actions that were ensuing by Trustee and Referee, up to and including the May 10, 2001 sale of the property of the estate. Furthermore, I was abandoned by the Trustee who had been charged with the responsibility of overseeing the estate.

10) The adverse interest of the referee was discovered when my friend, delivering Motion papers for me, went to his office to help me collect the `surplusage' of the sale of the property from the Referee and found he shared offices with the creditor. We were appalled by the gross violation of spirit and letter of (a) Bankruptcy Code; (b) New York Mortgage and `Foreclosure Law; (c) Part 36 of the Rules of The Chief Judge of the State of New York. This information was not discovered until the summer of 2003. It was discovered only by accident and is unlikely to have been discovered except by accident, as the case evolved as previously stated. Like the fruitless ordering of key transcripts—which, to date, have not been produced--the discovery of the Referee's conflict of interest came as a shocking surprise, along with the negligence and inexcusable neglect of the Trustee whose Final Reports, filed after the sale, prevented 99-218210-575 from being closed until 8/13/01—3 full months after the illegal sale

11) Gross conflicts of interest on the part of the Referee were discovered that violate spirit and letter of the law upon which are based Part 36 of the Chief Judge Rules of State of New

York in addition to case precedents and law abundantly set forth in: Betcher v. Rademacher, 35 Misc. 2d 693, 230 N.Y.S. 2d 535 (1962); Bennett v. Fish, 2 Misc. 2d 1051, 157 N.Y.S. 2d 871 (1956); Wolfers v. Duffield, 72 Hun. 637, 25 N.Y.S. 374 (18933); Baker v. Baker, 70 Hun. 95, 23 N..S. 1083 (1893); Kingsland v. Chetwood, 39 Hun. 602 (1886). Citibank v Shroeder, 266 A.D. 2d 332, 698 N.Y.S. 2d 304 (2d Dept. 1999), citing Corporate Investing Co. v. Mount Vernon meal Products Co., Inc., 206 App. Div. 273, 276, 200 N.Y.S. 372, quoting Wilcox v. Drought, 36 Misc. 351, 73 N.Y.S. 587 Lobbet v Galpin, 228 A.D. 65, 239 N.Y.S. 76(4th Dept. 1930); Corporate Investing Co. v. Mt. Vernon Metal Products Co., 206 A.D. 273, 200 N.Y.S. 372 (2nd Dept. 1923), Roslyn Sav. Bank v. Jones, 69 Misc. 2d 733, 330 N.Y.S. 2d 954 (1972) **All above citations show Referee powers and Responsibilities.** (See APP-13). The Referee's conflict of interest in my case supported the Trustee's failings in my case. See Security Pacific National Trust Co. v Dusevic: Trustee in bankruptcy has full authority over estate property when case is filed and property leaves estate only if Trustee formally abandons it or if case is closed. 11 U.S.C.A, Section 541(a)(1) Mertens, William J , Alex W. Bandrowski, James A. Clark and Russell Franz, petitioners, v Hewitt Associates on Writ of Certiorari to the U.S. Court of Appeals for the 9th Circ. (June 1, 1993) Midlantic Nat'l Bank v NJ Dept. of Environmental Protection. Certiorari to the U.S. Court of Appeals for the 3d Circ. No. 84-801. Trustee's right to abandon property subject to mandates re: Public safety; also "judge made rule must give way when it comes into conflict with a statute." Scharmer v Carolton Mfg Co. 6th Cir. 525 F. 2d 95, 98 : Title to Property of estate is vested in Trustee, title revests in debtor when Trustee consciously, [formally] abandons it.". My case, 99-21821-575 remained open because Bankruptcy court could not close it without Trustee Reports. The results of the former Trustee's (Gelberg's) dereliction of duty is readily seen in the pittance ($4,265.30) produced by the illegal sale of 5/10/01, alleged to yield a "surplusage" in that paltry amount when the house

was sold for $180,000 and there was an outstanding debt to the bank of $120,000 approximately, with negligible additional water taxes. Indeed, the referee paid himself twice as revealed in the auction documents. Clearly, 29 U.S.C.A. Sect. 1341 Re Breach of fiduciary responsibility resulting in lower benefits (e.g., surplusage) in a foreclosure sale at auction. 11 U.S.C.A, Section 541(a)(1) gives the only acceptable conditions for closing case. Judge Laura Taylor Swain's Confirmation of February 11, 2000 provided for special oversight on the part of the Trustee. This responsibility is addressed in the Bankruptcy Reporter in various places as follows: BankR 2492,2511, 2531, 3131, 3135, 3441: "Trustee in bankruptcy has full authority over estate property when case is filed and property leaves estate only if Trustee formally abandons it or if case is closed." When I specifically invoked the Local Rules of Bankruptcy on 7/11/01 (2002-1, et al, 6004-1, 6005-1, 6007(b)), the court had grounds to reverse, set aside, vacate the illegal sale of 5/10/01. That is why Judge Craig reversed her 6/19/01 Hearing position that she could not modify, or revisit another judge's Order. Judge Craig called for a "confirmable plan" on 7/11/01 because of the merit of my Motion on 7/9/01, that is, the Order to Show Cause citation of the local rules that had been breached. My complaint to Grievance Committee re: Former Trustee Gelberg speaks to my realization of the manner in which I have been harmed by his dereliction. My Grievance is appended as an exhibit, APP-10. Similarly, my Complaint to Grievance Committee re: Referee Horowitz shows I was most astutely and painfully aware of the precise failings of these officers of the court, whose actions suggest fraud and misconduct as much as they do dereliction of duty and I ask that the court look into these serious allegations of substance (See APP-10, APP-11, APP-20). The Former Trustee's lack of filings and reports inarguably established by the fact that the bond could not be cancelled, nor the Trustee discharged, nor the case closed until 8/13/01, --a full three months after the sale which was therefore illegal.

assistance until Fall of 2003, the lack of timely discovery should not be counted against petitioner.

12) The Debtor has prepared an action against the Former Trustee and may include the Referee for contempt and violation of statutory duty applicable to this case by virtue of Rules 322, 323, and 324, as well as violations of the spirit and the letter of the Part 36 Rules of the Chief Judge of the State of New York.

13) A lawyer, no longer handling my case, had been retained briefly and no other lawyer has worked on this case since the original `plan' was confirmed in February of 2000. A Mr. Farinella was engaged on another project in January 2003, in order to protect the remaining property of the estate, 827 Quincy St., Brooklyn, N.Y. 11221, which was thereby saved from auction by Delta Funding, through refinance she was able to accomplish by virtue of the additional time.

Debtor suggests these facts qualify under 11 USC section 9024 and FRCP 59(b) and 60. These facts support the exception to the time limit for reopening on the basis of mistakes, excusable neglect, newly discovered evidence, and possible fraud as required by 11 USC section 9024 and FRCP 59(b) and 60. Accordingly, an action has been prepared against the former Trustee and may include the Referee for contempt and violations of statutory duty applicable to this case by virtue of Rules 322, 323, and 324.

WHEREFORE, I, the Petitioner, request the sale be found to have been illegal in order to allow me to file and prosecute a claim against the Respondent, Green Point Bank; the Former Trustee Gelberg and possibly the Referee Horowitz; and former attorney Jacubowitz for abnegation of their duties and law violations, as well as seek relief through the Title company's insurance which provides for such "omissions, etc."

THE RULES WERE NOT FOLLOWED TO PERMIT THE FORECLOSURE SALE. THE BANKRUPTCY STAY WAS STILL IN EFFECT AT THE TIME OF THE FORECLOSURE SALE BECAUSE THE CONFIRMATION ORDER RETAINED THE PROPERTY IN THE ESTATE, REQUIRING THE FORMER TRUSTEE"S FORMAL ABANDONMENT BEFORE THE STAY WAS LIFTED. THE FORMER TRUSTEE NEVER PERFORMED THIS CONDITION PRECEDENT AS PROVED BY THE FACT THAT JUDGE MILTON WAS ONLY ABLE TO "DISCHARGE THE TRUSTEE, CANCEL THE BOND AND CLOSE THE CASE" ON "8/13/01...EFFECTIVE 6/1/00!" (SEE APP-V)
THIS IS THEREFORE ONE OF THE ERRORS CONTEMPLATED BY FRCP 9024 RULE 60 IN PART AND ENTIRETY TO WHICH THE COURT REFERRED ON 6/19/01 and 7/11/01 AS THE ONLY POSSIBLE BASIS FOR RELIEF FROM THE PREJUDICE ORDER OF 8/25/00. THE OTHER GROSS ERRORS ARE THE MISSING TRANSCRIPTS AND THE REFEREE'S CONFLICT OF INTEREST WHICH COULD NOT POSSIBLY HAVE BEEN DETECTED EARLIER ON, CONFORMING AS THEY DO, RATHER, TO THE CATEGORY OF "SURPRISE, DISCOVERY, ETC.".

On February 11, 2000, Judge Laura Taylor Swain of the Bankruptcy Court issued an Order Confirming the Petitioner's Plan under 199-21821-575. Paragraph 4 of the Order of Confirmation provided that property would revest in the owner when the case was dismissed or closed or otherwise ordered; only then would the automatic stay be lifted. No transcripts exist to clarify departure from Bankruptcy Code, wherein "Dismissal" and "Closing" are equated. The most important legal argument is: the Bank (Greenpoint Bank) did not have authority to foreclose on the real property and sell it because the 'Bankruptcy Stay' issued in case 99-21821-575 was not removed. The stay was in effect when the bank foreclosed and auctioned the property on May 10, 2001.

The stay was in effect because of the order of the judge. The judge's order directed that the property remain in the `estate' until the case was ended. (see p.2, paragraph 4 of the order of Judge Swain dated February 11, 2000: "The debtor's real property shall remain property of the estate, title to which is vested in the Trustee until dismissal or closing of the case, or until further order of this court."). This is a specific directive that required the property stay in the estate after the CH 13 plan was confirmed. While it may be argued as to whether this change from normal Bankruptcy Procedure as outlined in section 362©(1) and section 1327 (b) of the Code is allowable, the power of the judge does not extend to making "case dismissal" and "case closing" equivalent since doing so qualifies as a "judge made rule" that unconstitutionally reduced my 14th amendment right to: "equal protection under the law" and right to debt relief as provided in Title 11. The nonexistence of transcripts of this and other key hearings is indefensible and the lower Courts should have given me the requested relief for this reason alone. On 6/19/01 I ordered the indispensable Judge Swain transcript of 8/25/00 Prejudice Order Hearing and on 12/02/02 I ordered the Judge Swain transcript of the 2/11/00 Confirmation Hearing—neither of which were ever produced in the Bankruptcy Court, in the District Court or the Court of Appeals. The consequence of the Judge's order regarding vesting of the estate at the time of the confirmation of the 99-21821-575 Petition was that former Trustee Stuart Gelberg (who recently resigned for other gross misconduct in that office) had a legally binding obligation to have "formally abandoned" the property at 831 Quincy St., Brooklyn, N.Y. 11221. Because he did not, the case could not be closed until 8/13/01, after the 5/10/01 illegal sale. The Bankruptcy Code clearly mandates that Formal Abandonment shall be accomplished only by means of following Local Rules 2002 -1, 2 ,3, etc., which requires: (a) Notification of intent to sell the property that is under the Trustee's charge; (b) Obtaining authority from the Court to retain an auctioneer; (c) Allowing

Debtor, thereby, the opportunity to interpose objection (s), for which, in my case, Judge Laura Taylor Swain had provided indisputable rights in this respect by stating that the Order of Dismissal with Prejudice, allowed exception where permission was obtained. (BR 718, BR 5009). The Rules for the Trustee are set forth in the United States Trustee Program. "Accounting Office Memorandum of Understanding, Amended memorandum of understanding between the Executive Office for the United States Trustees and the Administrative Office of the United States Courts regarding case closing and post confirmation [title] 11 Monitoring" Case closing and opening legal complaints are also shown in Wade (1993, CA7 2"d) 991 F2d 402, 24 BCD 210, 28 CBC2d 1253, CCH Bankr L Rptr P 75216, reh den (1993, CA7) 1993 US App. Avery (2002, BC ED Cal) 272 BR 718: The Trustee did not file any of the required documents to abandon' the estate as evidenced by the Court's ability to close the case only on 8/13/01. (See APP-14). The sale of the real property was ineffective because the court's order in case #99-21821-575 directed that the property remain in the estate and not vest in the debtor until the end of the case (see paragraph 4 of the order of Judge Swain dated February 11, 2000; 'The debtor's real property shall remain property of the estate, title to which is vested in the Trustee until dismissal or closing of the case, or until further order of this court." If this order was legal; see section 1327 (b) of the Bankruptcy Code), then it continued the stay; see section 362 (c)(1) of the Bankruptcy Code)). After the case was dismissed, this required the Former Trustee to formally abandon the property before the bankruptcy stay was lifted. **Since the Former Trustee failed in his duty to formally abandon the property (as evidenced by the fact that the court could not Close the case until 8/13/01)**, the bank did not have the right to foreclose the property at that time. In the 9/26/01 Hearing on 99-21821 before Judge Milton, Trustee stated "the reports must have been lost, but was a mere administrative detail". (No transcripts exist for this hearing either). Court clerks earlier on stated that "we have been after the Trustee for nearly one

year to deliver the reports." A deposition of the clerks is planned. There are no transcripts of this hearing. (See Rule 5007, Mandatory creation and maintenance of transcripts) Subsequently, upon the curious advice of the Bank's attorney, we were directed to visit the bankruptcy court of the Eastern District at 75 Clinton St. and, examining the Docket, an entry represented that the theretofore missing reports had been filed. However, the fact remains that the **Trustee was not discharged, nor the bond cancelled until 8/13/01, over three months after the sale of May 10, 2001 date. The sale of the property was illegal because the 99-21821-575 Bankruptcy Stay was still in effect and on account of the jurisdictional deficiencies, absent observance and practice of the Local Rules in the course of Formal Abandonment of the property of the estate as I stated to the Bankruptcy Court on 7/11/01 through my friend. (See page 19, lines 14-23 of the 7/11/04 Transcript before Judge Craig. App-15). Special attention** is called to the fact that the **Court's reply** to the **claim of illegality relative to 99-21821-575** being made by Petitioner is that **"But that case had been dismissed"— a wrong answer.**

Thus, once again "dismissal" is erroneously equated to "closing", repeating the error of Confirmation Hearing of 2/11/00 held by Judge Laura Taylor Swain, wherein "dismissal" and "closing" are used interchangeably: "Property of the estate shall remain vested in the Trustee until dismissal or closing" (App-6). The fundamental argument being made here in this court as in all lower courts, beginning on 7/11/01 and in the 7/9/01 Order to Show Cause, is that such modification of the applicable statutes, rules, Bankruptcy Code is totally and categorically impermissible.

As to the part of the Confirmation Order of 2/11/00 which is permissible as a "judge made rule", in requiring the Trustee to oversee the property of the estate with special care, the Former Trustee's action was raised by the judge from a mere administrative formality to a substantive act , and I did, in fact, rely on it and was confused to find the bank foreclosed

without the Former Trustee's action. A judge made rule that enhances protection makes sense, while a judge made rule that deprives the petitioner of rights and protections granted to others cannot be permitted since that would violate the sacrosanct IV amendment to the U.S. Constitution: "equal protection under the law". I was distraught by the creditor's "Notice of Sale" by auction in early April, and on May 2, 2001, I filed, Pro Se, a Petition for Bankruptcy. On May 10, 2001 the Bank **directed its tenant, referee Horowitz to conduct a sale at auction. (See APP- 11 and APP-19 in context of Part 36 of the Chief Administrative Judge of New York State Courts re: appearances of cronyism and conflict of interest. Due diligence would have shown the Referee that the stay had not been lifted from 99-21821-575, rendering the property ineligible for sale). Also,** as Debtor, I should have been notified of the "Formal Abandonment" or intentions in this regard by the former Trustee who is mandated so to do under Bankruptcy Law as set forth in the Local Rules of Bankruptcy 2002 1, 2, 3, etc.—and not by the Referee. Had the Local Rules been followed, the Petitioner would have had recourse to the relief from the 8/25/00 Prejudice Order which allowed subsequent filing if permission were sought.

It is clear that the property of the estate of 99-21821-575 had not been formally abandoned, reports filed timely not only by the testimony of court clerks who stated to the Petitioner: "We have been after the Trustee for about one year for those reports" (We may depose that assistant); but also by the fact that Judge Craig in the 7/11/01 Hearing on 01-15887-608 (the instant and related case) would easily have Closed the case 99-21821-575. She did not because she understood that conditions for closure had not been met. Accordingly, she instead invited Petitioner to submit a "confirmable plan". The case could not properly and lawfully be closed according to law: 11 U.S.C.A, Section 541(a)(1), **Judge Milton's Order of August 13, 2001 "closing the case" was after the fact of the illegal sale, thus "locking the stable after the horse is gone" in an attempted nunc pro tunc cleanup after the Trustee.**

(See APP-v). The missing transcripts for the crucial hearings (February 11, 2000 and August 25, 2000, on Confirmation of Plan and Dismissal of Petition, respectively) cannot be accounted for in violation of my rights established by Bankruptcy Rule 5007 and 28 U.S.C.A., Rule 80 and 28 U.S.C.S. para. 753. Missing and nonexistent transcripts suggest there is no basis for Judge Swain's Orders of 2/11/00 and 8/25/00. In view of all of the facts, the Order given by Judge Milton on August 13, 2001 (closing the erstwhile open case) can only be viewed as capricious and arbitrary in its denial of a my right to Debt Relief, a fundamental right. ((See APP-4). **Both Judge Craig and Judge Milton should have vacated the 5/10/01 sale and allowed me to sell my own house at the very least as a viable, far more equitable solution to my indebtedness on the property. Because the lower courts did not see this obvious course of action as a reasonable solution. I struggle to this date in search of justice. The sale cannot be justified as legal occurring on 5/10/01, before the case was closed on 8/13/01. My ability to deliver a confirmable plan was irrelevant to defining the legality of the sale; only the Bankruptcy Code and applicable statutes can do that. Each lower court should have found for me in this way, yet they did not.**

Furthermore, it is hard to defend an auction sale for 42-51% of value when it was very easy and inexpensive to sell the property for much more. How difficult is it to sell residential real estate in NYC for 80% - 85% of appraised value? The court In Re Richardson (supra) is careful to make the point that meeting the statutory minimum for a sale under state law is not enough. While Respondent met that minimum with the auction, that is not enough under Federal Law. In addition, I never knew how many people attended the auction or how many bid on the property. This is a factor under In Re Richardson (supra) to determine whether the Former Trustee met his burden to approve only a sale that protects the Bankruptcy Estate.

Please note, it was at Former Trustee Gelberg's motion to the court in June of 2000 that the normal period for barring a new Bankruptcy Petition of 180 days was extended to one full year. This is an example of Gelberg's initiative in this case. Later, 9/26/01, before Judge Dennis Milton, Former Trustee Gelberg also takes action to oppose the motion to re-open the case, which had been open all along, all the way to 8/13/01.

Foreclosure by the former Trustee was not made pursuant to Section 548(a)(2. Petitioner appeals the Foreclosure under Section 548(a)(2)of the Bankruptcy Rules. Petitioner submits that the former Trustee failed in his duty when he did not set aside the involuntary foreclosure sale held with an open case.

The former Trustee had a duty to `avoid' sales which compromise the Bankruptcy Estate. The former Trustee had a duty to protect the interest of the Bankruptcy Estate, and that interest was impaired by a forced sale which is "too far' below market value. This sale of a $350,000--$400,000 property for $180,000 is 'too far'. The $350,,000 value derives from the Respondent when Respondent approved the mortgage with Petitioner and by MARKET VALUE OF THE ROW OF HOUSES CONTIGUOUS WITH THE SUBJECT PROPERTY, WHICH APPRAISE AT $350,000 TO $400,000 per "Comps."

While the Durett Rule is not the majority rule in most jurisdictions, it still has influence. The Durett Rule indicates that a real estate sale below 70% of appraised value is suspect; Durett v. Washington National Insurance Co., 651 F2d 201 (5th Cir. 1980). This sale was for 42 - 51%.

In the instant case, it is easy to see this sale failed the Durett Rule. $180,000 is approximately 51% of the appraised value of over $350,000. However; In Re Richardson (supra) requires that we look further.

In Re Richardson, 23 BR 434 (Bankr. D. Utah 1982) articulates

the majority rule. That Rule is more intricate, looking to a variety of factors but always giving effect to the purpose underlying Section 548 of the code to preserve the assets of the Bankruptcy Estate.

The In Re Richardson (supra) factors focus on the actual economic and market conditions at the time of the sale. It looks to interest rates, liquidity, demand for this asset, cost of alternative methods of sale, etc. The number of bidders at the auction is also important. This number is not at this point known. In the instant case, the property is a multi dwelling residential unit in a good neighborhood in Brooklyn. The real estate market (for residential properties) is booming. Demand is high. Interest rates are low. The cost of engaging a broker to improve the price gained for the asset for even as long as three months is not high. Justice demanded I be allowed to sell my own property, given the illegality of a voidable sale.

SUMMARY OF THE ARGUMENT

Errors abound in this case that entitle me as Petitioner to reversal of the fundamental adverse rulings by the lower courts, chief among which is the fact that 99-21821-575 was open during the 5/10/01 sale of the property of the estate. Even if this Court overlooks such surprises, discoveries, negligence, mistake, etc. as the referee's conflict of interest and the missing transcripts from multiple hearings; or the Court's fundamental error of equating Dismissal to Closing of the case, the fact that 99-21821-575 was open during the 5/10/01 sale is the controlling fact and a meritorious part of the record on appeal, having been invoked by this Petitioner as early as the second hearing on the instant petition 01-15887-608 on 7/11/01. Therefore, even if this Court opts not to allow the instant petition 01-15887-608—which would no longer serve a Petitioner's interests at this point anyway—still this Court must find that the 5/10/01 sale was illegal because the previous stay relative to 99-21821-575 was not lifted until 8/13/01, three full months after the sale, quite obviously,

as an accommodation and convenience to the commercial interests of the bank and bidder at auction—which interests cannot be accorded greater sanctity than a Debtor's rights under the compelling, supervening statutes, Bankruptcy Code and Constitution relative to "Equal Protection Under the Law" and right to "Debt Relief", codified by Title 11.

ARGUMENT

POINT I There is no evidentiary record to show what transpired in key hearings of 99-21821-575-- for example, to show the court's meaning and intent in key rulings and to show what actions my then attorney took in defense of the estate or what context existed for court rulings adverse to the estate. Thus, legally and effectively, the hearings are a nullity. They never happened and there was no prejudice order of 8/25/00 that can contextually be established at law. Furthermore, the 2/11/00 Confirmation Hearing, without mandatory transcription,, is void of context and meaning to support the enigmatic Order of Confirmation, erroneously equating dismissal and case closing. As previously stated, the reason I was forced to proceed Pro Se is that the Prejudice Order of 8/25/00 repelled any new professional counsel who understandably (but incorrectly) saw me as being in contempt of a Court Order. At least 8 or 9 attorneys rebuffed me outright, although I could pay them, when it was clear my attorney had abandoned me unofficially. Most truthfully, I did not know of the 1 year ban part of the order (the Prejudice Order) because attorney Jacubowitz was gone after he filed the original papers. Like the Trustee, Mr. Jacubowitz also neglected to inform the bankruptcy court that he had abandoned the case, remaining listed as my attorney till 2004.

Mr. Jacubowitz's poor performance is illustrated by the fact that as late as (1/23/04) he was still the "Attorney of record". Again, no attorney would represent me. **Even a recent attorney I hired confessed to being literally cursed at by**

Green Point bank's attorney. Therefore, he quit the case. On 5/10/01, my property was protected by 99-21821, whose stay was not lifted until 8/13/01, August 25, 2000 Prejudice Order and Dismissal, notwithstanding. As I rightly maintained in my 7/9/01 O.S.C, and Hearring on 7/11/01, the Local Rules were controlling. **But transcripts are missing. There is no evidentiary record in the mandated form of transcripts for key hearings** of (a) Confirmation Hearing of February 11, 2000 before Judge Laura Taylor Swain; (b) Hearing on Dismissal with Prejudice ("Prejudice Order) of August 25, 2000; (c) 341 Creditor Meeting in 01-15887-608 on 6/20/01 case petition where, in the instant petition, Trustee (Macco) accepted 2 payments in amount of $3600, with assurances "you're okay, just get me my documents" (ESTOPPEL) ; (d) Hearing before Judge Dennis E. Milton on 9/26/01 on Motion to Reopen 99-21821-575 wherein Former Trustee states that Final Reports have been lost, corroborating Court clerks who state his reports are missing. If they have suddenly now appeared, U.S. Trustee Manual at 4-6.1 (Final Audit) procedures by Trustees acting as successors to Trustees who have resigned, may explain the appearance of previously missing reports that prevented the closing of 99-21821-575 prior to 8/13/01. (e) Confirmation Hearing before Judge Craig with Former Trustee Macco on 7/24/01, wherein petition is dismissed only for want of a "confirmable plan" which was lacking by reason of unprofessional appearance and minor technical misunderstanding Ability to pay was never in dispute as per ©) above (ESTOPPEL), nor was the prejudice order of 8/25/00 any longer at issue, having, thusly, been modified.

This is an unacceptable amount of lost transcripts which cannot be trivialized as "harmless error" since these transcripts are essential to provide context to explain otherwise illogical events at variance with statute, rules, and the general underlying laws. Only a spirit of injustice can insist that I settle for imagination as substitute for transcripts, evidentiary record provided to others by law.

A transcript record is required of every hearing, 28 USC section 753. The consequence of their absence and remedy is that the events of the non-recorded hearing are a nullity. Bromberg v. People of Illinois, 136 III App 602, establishes the remedy for the loss of crucial transcripts. In addition, Rule 60 (a) gives the court broad discretion on the remedy for a "transcription error", even hearing by the trial court, Moore's Federal Practice, v. 18, Rule 80. Compromise of and attacks on "judicial machinery" are not to be countenanced.

Federal rule of Bankruptcy Procedure 5007 requires record of proceeding and transcript. Notwithstanding the clarity and force of that rule, along with 28 U.S.C. para. 753 and 28 U.S.C.A. para. 80, mandating maintenance of transcripts, and stating that "missing transcripts destroy evidence and prevent crucial discovery", respectively, it sometimes is argued that there is a burden of proof upon the petitioner to show that transcripts would have made a difference. Herewith, I address the additional requirement by pointing to the fact that with a transcript for Confirmation Hearing of 99-21821-575, on 2/11/00, the Judge's (Swain's) erroneous equating of "dismissal" and "closing" of the case would be underscored as erroneous. A transcript of the 8/25/00 Hearing on the Former Trustee's Motion for a Prejudice Order would reveal the softer provision of the judge for relief from the order by allowing permission to be sought. A transcript of the 6/20/01 341 Creditor's Meeting with Former Trustee Macco would reveal that he accepted two payments and assured me (estoppel) "You're okay. Just get me my documents", evidencing estoppel. A transcript of the July 24, 2001 Confirmation Hearing on 01-15887-608 before Judge Carla Craig, with Trustee Macco would further prove that Judge Craig had modified Judge Swain's Prejudice Order, and that having missed the 10-day window for appeal from the 8/25/00 Prejudice Order was thenceforth irrelevant, and moot from then on. A transcript of the 9/26/01 Hearing

before Judge Dennis Milton on the Motion to Re-open 99-21821-575 would reveal that the Former Trustee stated that the "Final Reports and other 'administrative details' must have been lost", thereby confirming court personnel who stated: "We have been after him for those reports for nearly a year!". The O.S.C. (APP-9) protests his dereliction of duty.

POINT II. The only existing transcripts are (a) for the first Hearing on the Chapter 13 petition number 01-15887-608 before Judge Craig on 6/19/01. (APP-16) At that hearing, transcripts (which have been presented to the Court of Appeals as they were presented to U.S.District Court's Judge David Trager) show that Judge Craig's order indicated that she could revisit and modify a previous Judge's Order (Judge Swain's) only if there was "error, mistake, negligence, inexcusable neglect, discovery, surprise or other reason" as per FRCP 9024, Rule 60, etc. On 7/09/01 Judge Craig signed an "Order to Show Cause why the illegal sale of 5/10/01 should not be set aside and/or vacated". That "Order To Show Cause" filing was based upon the discovery that the previous case, 99-21821-575 (Judge Swain) was still open, never having been closed as required by the Bankruptcy Code in numerous places—e.g., Bankr Rule 5009, etc. As the Bankr. Court properly noted, the Local Rules did not apply to 01-15887-608, but they certainly applied to the property of the estate in 99-21821-608 which my friend and I stated in the 7/11/01 Hearing on the OSC as the transcript shows (See APP-15). The prior stay was still in effect we said in that Hearing on Order to Show Cause why the sale should not be set aside and/or vacated because the Local Rules of Bankr. relative to 99-21821-575 were violated. They had, indeed, been violated, given the open 99-21821 case. (APP-9)

POINT III While—incorrectly, we believe—denying relief on the grounds of violated Local Rules; nonetheless, in the face of the discovery of neglect, etc. on the part of the Former

Trustee, Stuart Gelberg, and in view of the fact that I specifically sought relief on these grounds, Judge Carla E. Craig therefore discussed allowing me to present a "confirmable plan", thereby modifying Judge Swain's Prejudice Order. In fact, a "Confirmation Hearing" was held on 7/24/01, Judge Craig presiding, with Former Trustee Macco in attendance. The 7/11/01 Hearing transcript **presages** this. The Notice of Confirmation Hearing **evidences** this. The Bankr court was responding to the open 21821-575.

POINT IV: That 99-21821-575 was still open and not legally closed as required by the Code and not legally closed by the relevant statutes is shown by Judge Dennis Milton's Order of 8/13/01 closing 99-21821-575 effective June 2000—thus, he closed the case (nunc pro tunc?!). Judge Milton's order, however, gave the appearance that the court had "enforce[d] an illegal bargain" which Bankruptcy Court Eastern District Supervising Judge Conrad B. Duberstein has stated must be avoided at all cost. (See Cromer v. Orta) and (APP-4))

It is important to note that when Judge Milton closed the 21821 case nunc pro tunc, the court did not recognize the following issue : If the case had been Dismissed with Prejudice on 8/25/00, it could not possibly be Closed on 6/1/00, since dismissal is only ONE STEP of the PROCESS of Closing, which is accomplished ultimately only by virtue of Former Trustee Final Reports, discharge of the Former Trustee, cancellation of bond, etc. Furthermore, Closing cannot precede Dismissal. This was the second error of the court relative to closing and dismissal. The first was in the 2/11/00 Confirmation Order.

The case was not legally closed till 8/13/01. This shows that my contention was correct and is correct, that -- during the May 10, 2001 sale of the 831 Quincy Street property--the case was still open. Although proceeding Pro Se, this argument was articulately made in "Point I through

Point III" of my "Reply Brief" of November 12, 2001 before U.S. District Court's Judge David Trager, supported by ample citations and exhibits. In this case, as often happens, definition of dismissal versus closing is often blurred and much confusion surrounds the concept of case closing versus dismissal, we have learned in seeking an attorney. On this issue, error is a regular problem. I, (Petitioner) have been a victim of that specific, very serious error; a type of error which Judge Craig on June 19, 2001 had contemplated as the only basis for relief; an error which I had fortuitously and resourcefully found and pleaded on July 11, 2001 during the Hearing on my Order to Show Cause. (APP-9) I argued that the Former Trustee had not "Formally Abandoned the property of the estate" as is required by Local Rules of Bankruptcy 2002-1, 2, & 6007,.Bankr. Rule 5009, etc. Once I had invoked this specific section of the Local Rules, the Bankruptcy Court as well as the U.S. District Court should have vacated the illegal sale, given that all concerned saw that the previous case 99-21821-575 was not closed, and therefore still open, rendering the May 10, 2001 thus illegal. (APP-9) ALTHOUGH DISMISSED, THE 99-21821-575 STAY WAS NOT LIFTED. On close scrutiny, it is clear that Judge Craig's and the Bank's position was incorrect that Local Rules did not apply because 01-15887-608 was prohibited by the 8/25/00 prejudice order in 99-21821-575. The Local Rules did, in fact, apply because 99-21821-575 was still open, and the stay not lifted officially until 8/13/01—three months after the 5/10/01 sale. When the District Court affirmed the lower court ruling, it erred. Thus, I must respectfully submit that the lower courts all erred when they failed to find the 5/10/01 sale illegal when it was impossible for the sale to be legal so long as the 99-21821-575 case was open which it was at the time of the sale. Therefore, reversing the errors of the lower courts is consistent with the mission and mandate of the U.S. Supreme Court to supervise errant courts. Further, I want to emphasize that I did not, in fact, seek to override the prejudice order of Judge Swain of which I had no knowledge.

On 6/19/01 that Judge Craig ruled that the 01-15887-608 filing was untimely but she set forth rigorous conditions under which Judge Swain's ruling might be modified. **Those conditions were met when my July 9, 2001 Order to Show Cause revealed that I knew the Local Rules re: abandonment had been violated and that the previous case 99-21821-575 had issued an automatic Stay which was still operative (APP-9 and APP-15) because the case had not been closed even though the case was dismissed.** This was why the Trustee (Macco) had accepted payments; why Judge Craig invited a confirmable plan and why the Confirmation Hearing on 01-15887-608 was conducted on 7/24/01. (APP-1) As previously shown, I was unable to produce a professional plan, being shunned by the legal profession by reason of the Prejudice Order.

POINT V. Another compelling surprise and discovery is the Referee's "Conflict of interest". Clearly, the Referee should have turned down this and all other cases involving his landlord and neighbor (same building), Greenpoint bank, to avoid appearance of cronyism. By not turning down this case, he violated Part 36 of the New York State "Chief Judge's Rules" and the Model Code of Ethics. Suspicious behavior:

Chief Judge of New York State Supreme Court. in Part 36 of the Rules, strenuously orders the avoidance of such appearances. Also, Bergman in New York State Mortgage and Foreclosure, published by Matthew Bender, has whole chapters on this and related issues concerning "Referee's Powers" and concomitant responsibility with respect to due diligence in establishing the eligibility of property of the estate for purposes of sale to satisfy the mortgagee's lien.
(APP-13 evidences Referee's tenancy in bank's building.)
The Referee, Horowitz, is a tenant in the office building owned by the Creditor Bank, Greenpoint Bank at 356 Fulton Street , Brooklyn. Further, Greenpoint also keeps offices in this building. (I learned of this conflict of interest when my friend went to the Referee's office to serve Motion papers

for the collection of the 'surplusage' on the sale of the house.) This conflict was a surprise discovery in March –April, 2003, following upon the transference of the deed in the preceding month of February 2003, and it was literally impossible to detect any earlier on, as there was no prior opportunity for that surprising discovery. Indeed, had I not proceed pro se, I would never have learned it, since an attorney would have served the Motion papers via process server who would have found no significance in the referee's occupancy of the lienor/mortgagee's premises, in apparent conflict of interest, violating Chief Judge Rules Part 36. It shocked us, however.

The surplusage amounted only to $4,265.30 after the Referee paid himself twice. The property (831 Quincy Street, Brooklyn, N.Y.) was sold for $180,000 and the debt owed to the bank was $120,000, and the surplusage was 4,265.30. This is impossible!

There are problems here. A referee with a conflict of interest pays himself twice (See APP-19) and, overlooks a difference of $180,000 minus $120,000; files documents with County Clerk in March of 2003, whereas the sale occurred on May 10, 2001—twenty two months later! At best, there is an appearance of cronyism not balanced by anyone's efforts to 'protect' the bankruptcy estate; at worst, there is the real possibility of fraud which is in the purview of this Court, Respondent's protest re: "enlargement of issues" to the contrary, notwithstanding.

POINT VI Judge Swain Order of 8/25/00 allowed me the right to file for bankruptcy protection by requiring the permission of the court. However, the opportunity for relief from the prejudice order was denied me by reason of the Former Trustee's negligence in abandonment of the property improperly. Among other inactions, he did not give notice to me, the Petitioner, as an interested party.

POINT VII.. These issues are important and are timely

brought before the court. The major issue (e.g., openness of 99-21821-575) was raised as shown by transcript (See APP-15). In the absence of other transcripts, it cannot be shown that other key issues were not raised at the Bankr. court level, since Judge Swain's equating of "dismissing" and "closing" of a case in the 2/11/00 Confirmation Order cannot be explained otherwise, departing as it does from Bankr. Code. The issues were raised in the July 11, 2001 Hearings in my Order to Show Cause Motion dated 7/9/01 and reviewed by Judge Craig in 7/11/01 Hearing. (APP-9). In the Briefs filed in the U.S. District Court, I addressed the Former Trustee's (Gelberg's) deficiencies re: abandonment and I also addressed the issue of the amount of funds following the sale. Further, I emphasized the fact that Local Rules had been violated, Property of the Estate not having been formally, lawfully abandoned and I specifically requested the appropriate relief—which, in fact, Judge Craig allowed when she invited a "confirmable plan" which I clearly could afford as shown by my tax returns, pay stubs and rent rolls. Judge Craig allowed a Confirmation Hearing on 7/24/01 with Trustee Macco in attendance, but I lacked technical understanding, for example, relative to "percentages, revestiture,", etc. which frustrated this Trustee. (APP-1) (APP-2) (APP-3).(APP-5)

I had real trouble finding a lawyer because of the Prejudice Order. That made it difficult for me to produce a "professionally prepared" plan. It was for that reason and that reason only that my petition was dismissed at the Confirmation Hearing of July 24, 2001 pursuant to Trustee Macco's application. Such complexities clearly warrant special consideration, given the ongoing raging Bankruptcy Reform debate, the volatile economic climate and consequent need for greatest clarity on these issues as a matter of public policy, irrespective of the demographics, which I am forced to consider as an explanation for the treatment I have received in terms of the lower courts' cavalier attitude toward my objection to a sale during open case, missing transcripts, etc.

Conclusion:

The very integrity of the Bankruptcy Code is at issue, indeed, even at stake in that the magnitude and quantity of glaring errors staring even the casual observer in the face compels acknowledgement of the fact that (1) Dismissal of a Case is an entirely distinct function from the Closing of a case; (2) Missing transcripts cannot be permitted, as such absence of the evidentiary record attacks the machinery of justice itself; (3) Such gross conflicts of interest and appearance of cronyism, at the very least, on the part of the Referee as business tenant of the lienor's business premises so outrage the moral sensibilities, sharpened as they are by each and every existing ethics model—cannot be countenanced. Accordingly, the lower courts, overlooking these considerations as they evidently have, must be reversed for the restoration of the Petitioner's Constitutional Right to both due process and debt relief and for the maintenance of viable public policy, and the precious reputation of justice. If 99-21821-575 is found to have been open and the stay therefore not lifted during the sale, then the 5/10/01 sale of the property must be found to have been illegal and, as such, incurable by any manner of closing of the case after the sale, whatsoever, (nunc pro tunc, or otherwise). Failing such finding, the inescapable conclusion would have to be that an unofficial policy is in place whereby due process and Local Rules observance need not be applied as rigorously for Blacks as for Whites as I and my family and friends have feared. Despite my ordeal in the lower courts, we yet faithfully hope and pray that this Court will undo the wrongs done to me and my family in this case by exercising its supervisory function over lower courts where gross error is detectable. Had the lower courts addressed the open case issue, the missing transcripts issue alone, I would never have pursued this case this far. The failure to address them produced a deafening silence on such obviously critical issues as to become altogether suspect. The courts simply chose the path of least resistance—over my rights, to please the bank.

I brought my case from Bankruptcy Court, through U.S. District Court and most of U.S. Court of Appeals, Pro Se, without an attorney. For a brief time in the latter part of the U.S. Court of Appeals litigation, I thought I had found an attorney upon whom I could rely for oral argument and the benefits of his expertise. As an officer of the court, from a vantage point within the law, he was forced to confide that he found key issues very troubling (e.g. foreclosure sale while previous case was unclosed, missing transcripts, referee conflict of interest, Trustee negligence, etc.) and although he resisted the portrayal initially, he ultimately confessed that he found evidence of corruption, or "rottenness", to quote him. At one point fairly recently, he confided that he had been "insulted, made fun of and [literally] cursed at" by the bank through the bank's attorney. Recently, he told us that the Amicus Curiae Briief we asked him to request from Professor Robert Zinman of Saint John's University was conditionally promised to him and us on the merits of the Brief the professor asked him to send to him for review. Since the attorney we trusted has, like the rest, since disappeared, refusing all calls, emails, faxes, personal visits to his customary location, we enquired of the noted professor the status of his review only to be told that he had not spoken to my attorney at all about any Amicus Brief as my attorney had apparently falsely represented to us.

We must conclude that the bank has succeeded in intimidating him also as he cannot be found, so that I am once again sabotaged and betrayed by officialdom at the last minute. Thus the bank has succeeded in stripping me of legal expertise and vital support by unethically badgering, cursing and even threatening my legal counsel with specious, false accusations concerning his December 2003 Motion for rescheduling a January 2004 appearance in the Court of Appeals.

Consequently, I am forced to resume my litigation, Pro Se, and sacrifice to write yet another $300 money order to replace the Docket Fee U.S. Postal money order #06896376090 Mr. Nitzberg cashed himself rather than return it to me for resubmission of my corrected Brief and I pray that the Court will forgive any technical deficiencies relative to the rules which we have obeyed to the best of our untrained ability.

We desperately need this highest human Court to justify and restore our continuing faith in American Jurisprudence.

Wherefore, I petition the court for the following relief:

1) Setting aside or vacating the illegal sale at auction of 5/10/01 date, thus entitling me to compensation from Title Insurance and/or the **Respondent, Bank, whose highly trained attorneys surely knew the sale was illegal because the previous case, related case 99-21821-575 was not closed before the sale, albeit the case was dismissed, even prohibiting the instant case 01-15887-608, thereby.**
2) Permitting me to sell my own house and satisfy the debt of approximately $120,000.00
3) Reprimand and sanction both Referee and former Trustee, Gelberg, for their dereliction of duty
4) Any other relief the court deems just and proper

Dated August 15, 2004
New York, N.Y.

Respectfully,

Yvra G. Scringer

Yvra G. Scringer, Pro Se
Counsel of Record for Petitioner
255 Eastern Parkway, F1
Brooklyn, N.Y. 11238
Tel. 718 622-7112 & 718 783-3899